

**IN UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

VERRAGIO, LTD

Plaintiff,

V.

MODERN JEWELS & WATCHES, LLC

Defendant.

[illegible]

Case No.

# COMPLAINT FOR COPYRIGHT INFRINGEMENT; DEMAND FOR TRIAL BY JURY

Plaintiff Verragio, Ltd. (“Verragio”) files its complaint (“Complaint”) against Modern Jewels & Watches, LLC (“Modern Jewels” or “Defendant”) for damages and injunctive relief as follows:

## Subject Matter Jurisdiction

1. Plaintiff is a New York corporation with its principal place of business at 330 5th Avenue, 5th Floor, New York, NY 10001.

2. Verragio is informed and believes, and on that basis alleges, that Defendant is a Pennsylvania corporation with its principal place of business at 127 S. 8th St., Philadelphia, PA 19106.

3. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332. The parties are completely diverse and the amount in controversy exceeds \$75,000.

4. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 over the federal causes of action alleged in this Complaint.

### **Personal Jurisdiction and Venue**

5. This Court has personal jurisdiction over Defendant because Defendant is incorporated in the Commonwealth of Pennsylvania. Furthermore, Defendant regularly does and solicits business and derives substantial revenue from doing business in this Judicial District.

6. Venue is proper in this court pursuant to 28 U.S.C. §§ 1391(b) and 1400(a). The sole Defendant is incorporated in the Eastern District of Pennsylvania; the claims alleged in this action arose in the Eastern District of Pennsylvania; and the Defendant transacts business in the Eastern District of Pennsylvania.

### **The Business of Verragio**

7. Barry Nisguretsky (“Nisguretsky”) is the owner of Verragio.

8. For over 25 years, Nisguretsky has been an innovator in the design, creation, and marketing of fine jewelry. Nisguretsky designs his own jewelry and has created exclusive collections from only top-quality material.

9. Among Nisguretsky’s jewelry designs are Style Nos. D-100, D-102, D-136CU, D-128, ENG-0444, INS-7084CU, INS-7084P, and INS-7084R (the “Copyrighted Designs”), each an original design comprising copyrightable subject matter under the laws of the United States. A copy of each design’s Certificate of Registration is attached to this Complaint as Exhibit A.

10. Nisguretsky received a Certificate of Registration (Reg. No. VA 1-818-420) from the Register of Copyrights for Style No. D-100. A picture of D-100 follows:



11. Nisguretsky received a Certificate of Registration (Reg. No. VA 1-818-463) from the Register of Copyrights for Style No. D-102. A picture of D-102 follows:



12. Nisguretsky received a Certificate of Registration (Reg. No. VA 1-974-007) from the Register of Copyrights for Style No. D-136CU. A picture of D-136CU follows:



13. Nisguretsky received a Certificate of Registration (Reg. No. VA 1-818-415) from the Register of Copyrights for Style No. D-128. A picture of D-128 follows:



14. Nisguretsky received a Certificate of Registration (Reg. No. VA 1-852-981) from the Register of Copyrights for Style No. INS-7084R. A picture of INS-7084R follows:



15. Nisguretsky received a Certificate of Registration (Reg. No. VA 1-898-941) from the Register of Copyrights for Style No. INS-7084CU. A picture of INS-7084CU follows:



16. Nisguretsky received a Certificate of Registration (Reg. No. VA 1-852-970) from the Register of Copyrights for Style No. INS-7084P. A picture of INS-7084P follows:



17. Nisguretsky received a Certificate of Registration (Reg. No. VA 1-968-105) from the Register of Copyrights for Style No. ENG-0444. A picture of ENG-0444 follows:



18. Nisguretsky has exclusively licensed his copyright-protected jewelry designs, including the Copyrighted Designs, to Verragio.

19. Since their creation, the Copyrighted Designs have been manufactured by Verragio, or under its authority.

### **Defendant's Unlawful Activities**

20. Verragio is informed and believes, and on that basis alleges, that Defendant is a designer, manufacturer, and/or distributor of jewelry and is in the business of designing, manufacturing, marketing, and selling jewelry.

21. Verragio is informed and believes, and on that basis alleges, that Defendant operates its jewelry business in competition with retailers that purchase jewelry from Verragio.

22. Verragio is informed and believes, and on that basis alleges, that Defendant sells its jewelry to, and actively solicits and seeks as customers, the same customers and consumers as those retailers that purchase jewelry from Verragio.





23. Verragio is informed and believes, and on that basis alleges, that Defendant had access to Verragio's Copyrighted Designs, including, without limitation, through the widespread availability of pictures of Verragio's Copyrighted Designs (including on Verragio's website, social media pages, and elsewhere on the internet) and through the fact that Verragio and its designs are well known in the industry and by the public.




24. Verragio has not authorized Defendant to copy, reproduce, manufacture, duplicate, disseminate, or distribute jewelry with a design that is strikingly or substantially similar to the Copyrighted Designs, or any other copyright-protected ring design licensed to Verragio.





25. Verragio is informed and believes, and on that basis alleges, that Defendant has knowingly and willfully engaged in the advertisement, manufacture, distribution, duplication, and/or sale of rings that are strikingly or substantially similar to the Copyrighted Designs





(the “Infringing Rings”) on its website (available at [www.modern-jewels.com](http://www.modern-jewels.com)) and eBay store (available at [www.ebay.com/str/modernjewelsllc](http://www.ebay.com/str/modernjewelsllc)).

26. Comparisons of the Infringing Rings and the Copyrighted Designs upon which they infringe are shown below:



Verragio’s Copyrighted Design	Modern Jewels’ Infringing Ring
 <p>Verragio Style No. D-100 (Reg. No. VA 1-818-420)</p>	 <p>Modern Jewels’ “14k Two Tone Gold 1.25 CT Diamond Engagement Ring, 4.1gm, Size 6.75, S104465”</p>
 <p>Verragio Style No. D-100 (Reg. No. VA 1-818-420)</p>	 <p>Modern Jewels’ “14k White Gold 1.45 CT Diamond Engagement Ring, 4.1gm, Size 7, S13988”</p>

Verragio's Copyrighted Design	Modern Jewels' Infringing Ring
 <p>Verragio Style No. D-100 (Reg. No. VA 1-818-420)</p>	 <p>Modern Jewels' "14K WRG 1.50 CT LADIES DIAMOND ENGAGEMENT RING 3.7G, SIZE 6.5"</p>
 <p>Verragio Style No. D-102 (Reg. No. VA 1-818-463)</p>	 <p>Modern Jewels' "14k Two Tone Gold 1.60 CT Diamond Ladies Engagement Ring, 5.2gm, S105502"</p>

Verragio's Copyrighted Design	Modern Jewels' Infringing Ring
 <p data-bbox="354 766 636 829">Verragio Style No. D-128 (Reg. No. VA 1-818-415)</p>	 <p data-bbox="833 724 1393 787">Modern Jewels' "14k White Gold 1.00 CT Diamond Engagement Ring, Size 6.5, 3.7gm, S102997"</p>
 <p data-bbox="337 1459 646 1522">Verragio Style No. D-136CU (Reg. No. VA 1-974-007)</p>	 <p data-bbox="812 1438 1412 1501">Modern Jewels' "14k Rose Gold 1.75 CT Diamond Halo Engagement Ring, 4.4gm, Size 7, S105499"</p>

Verragio's Copyrighted Design	Modern Jewels' Infringing Ring
 <p data-bbox="337 762 654 825">Verragio Style No. D-136CU (Reg. No. VA 1-974-007)</p>	 <p data-bbox="833 688 1393 783">Modern Jewels' "14K TWO TONE GOLD 0.75 CT DIAMOND HALO ENGAGEMENT RING MOUNTING, 4.7GM"</p>
 <p data-bbox="329 1444 670 1507">Verragio Style No. ENG-0444 (Reg. No. VA 1-968-105)</p>	 <p data-bbox="816 1444 1409 1507">Modern Jewels' "14k Two Tone Gold .80 CT Diamond Engagement Ring Mounting, 3.9 g, S14763"</p>

Verragio's Copyrighted Design	Modern Jewels' Infringing Ring
 <p data-bbox="326 741 659 800">Verragio Style No. INS-7084R (Reg. No. VA 1-852-981)</p>	 <p data-bbox="818 737 1409 825">Modern Jewels' "14K MULTI COLOR GOLD 2.50CT PRINCESS DIAMOND ENGAGEMENT RING 3.6GM, SIZE 6.75"</p>
 <p data-bbox="318 1329 670 1388">Verragio Style No. INS-7084CU (Reg. No. VA 1-898-941)</p>	 <p data-bbox="821 1339 1409 1398">Modern Jewels' "14k Two Tone Gold.60 CT Diamond Engagement Ring Mounting, 4.2gm, S103036"</p>

Verragio's Copyrighted Design	Modern Jewels' Infringing Ring
 <p data-bbox="329 793 659 856">Verragio Style No. INS-7084P (Reg. No. VA 1-852-970)</p>	 <p data-bbox="816 709 1409 772">Modern Jewels' "14k Two Tone Gold .80 CT Diamond Halo Engagement Ring Mounting, 4.4gm, S102846"</p>

Screen captures of the Infringing Rings being advertised and sold through Modern Jewels' website or its eBay store are attached to this Complaint as Exhibit B.

**Cause of Action**  
**(Copyright Infringement Under 17 U.S.C. § 101 *et seq.*)**

27. Verragio realleges and incorporates by reference each of the allegations contained in Paragraphs 1 through 26 of this Complaint as though fully set forth.

28. Verragio is informed and believes, and on that basis alleges, that Defendant had access to the Copyrighted Designs.

29. Verragio is informed and believes, and on that basis alleges, that Defendant has engaged in the advertisement, manufacture, distribution, duplication, and/or sale of rings infringing the Copyrighted Designs

30. Defendant's acts thus constitute infringement of Verragio's licensed copyrights in the Copyrighted Designs in violation of the Copyright Act, 17 U.S.C. § 101, *et seq.*

31. Verragio is informed and believes, and on that basis alleges, that Defendant's infringement was deliberate, willful, malicious, oppressive, and without regard to Verragio's proprietary rights.

32. Defendant's copyright infringement has caused and will continue to cause Verragio to suffer substantial injuries, loss, and damage to its proprietary and exclusive rights to its Copyrighted Designs and has damaged Verragio's business reputation and goodwill, diverted its trade, and caused loss of profits, all in an amount not yet determined. In addition, Verragio is entitled to receive the profits made by Defendant from its wrongful acts pursuant to 17 U.S.C. § 504. Alternatively, under 17 U.S.C. § 504(c), Verragio is entitled to recover statutory damages, on election by Verragio, in an amount of up to \$150,000 for each copyrighted work sold, offered for sale, or distributed.

33. Defendant's copyright infringement, and the threat of continuing infringement, has caused and will continue to cause Verragio repeated and irreparable injury. It would be difficult to ascertain the amount of money damages that would afford Verragio adequate relief at law for Defendant's acts and continuing acts. Verragio's remedy at law is not adequate to compensate it for the injuries already inflicted and further threatened by Defendant. Therefore, Verragio is entitled to preliminary and permanent injunctive relief pursuant to 17 U.S.C. § 502 and to an order under 17 U.S.C. § 503 and 28 U.S.C. § 1651(a) that the infringing copies of the Copyrighted Designs and all molds by which such infringing copies were produced be seized, impounded, and destroyed.

34. Verragio is also entitled to recover its attorneys' fees and costs of suit pursuant to 17 U.S.C. § 505.

### **Request for Relief**

Verragio respectfully requests:

1. That the Court enter a judgment against Defendant finding that Defendant has:
  - (a) infringed the rights of Verragio in Verragio's federally registered copyrights under 17 U.S.C. § 501;
  - (b) that Defendant's infringement was willful.
2. That the Court issue a Temporary Restraining Order and Preliminary Injunction enjoining and restraining Defendant and its respective agents, servants, employees, successors and assigns, and all other persons acting in concert with or in conspiracy with or affiliated with Defendant, from:
  - (a) manufacturing, producing, selling, distributing, destroying, altering, or otherwise disposing of any jewelry that is in the possession of Defendant that is substantially similar to the Copyrighted Designs or any other copyrighted design licensed to Verragio;
  - (b) destroying any documents, electronic files, wax models, molds, business records, or any other tangible object pertaining to the copying, reproduction, manufacture, duplication, distribution, or advertisement of any such jewelry;
  - (c) engaging in any other activity constituting infringement of Verragio's copyrights in the Copyrighted Designs; and
  - (d) assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs 2(a) through 2(c) above.

3. That Verragio be awarded damages for Defendant's copyright infringement in the form of either: (i) actual damages in an amount to be determined at trial, together with Defendant's profits derived from its unlawful infringement of Verragio's copyrights; or (ii) statutory damages for each act of infringement in an amount provided by law, as set forth in 17 U.S.C. § 504, at Verragio's election before the entry of final judgment, together with prejudgment and post-judgment interest.

4. That the Court issue a Permanent Injunction enjoining and restraining Defendant and its respective agents, servants, employees, successors and assigns, and all other persons acting in concert with or in conspiracy with or affiliated with Defendant, from:

- (a) copying, reproducing, manufacturing, duplicating, disseminating, distributing, or using infringing copies of Verragio's licensed copyrighted jewelry designs;
- (b) engaging in any other activity constituting an infringement of any of Verragio's licensed copyrighted jewelry designs; and
- (c) assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs 7(a) through 7(b) above.

5. That the Court issue an Order at the conclusion of the present matter that all infringing copies of jewelry and all molds by which such infringing jewelry was produced be seized, impounded, and destroyed.

6. That the Court award Verragio its reasonable attorneys' fees as the prevailing party pursuant to 17 U.S.C. § 505.

7. That the Court award Verragio its costs of suit incurred herein.

8. That Verragio be awarded such other relief as may be appropriate, including costs of corrective advertising.

**DEMAND FOR TRIAL BY JURY**

Plaintiff Verragio, Ltd. hereby demands a trial by jury to decide all issues so triable in this case.

Date: August 20, 2024

ROYER COOPER COHEN BRAUNFELD LLC

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\* *Pro Hac Vice* application will be submitted